

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICK SIMER,

Plaintiff,

Case No. 2:22-cv-10020

v.

Honorable Susan K. DeClercq
United States District Judge

ADAM LOWE et al.,

Defendant.

**ORDER GRANTING DEFENDANTS' MOTION FOR ORDER TO SHOW
CAUSE (ECF No. 93) AND SETTING SHOW CAUSE HEARING**

Plaintiff Patrick Simer is suing Individual Defendants Adam Lowe, Mark Garey, Nicholas Talierico, and Nicholas Cherry under 42 U.S.C. § 1983, alleging that they used excessive force against him while he was being detained at the Oakland County Jail. ECF No. 1.

On July 17, 2024, this Court ordered Christina Doyle, a non-party, to comply with Defendants' subpoena by July 31, 2024, in accordance with Civil Rule 45. ECF No. 92. At that time, this Court denied Defendants' motion for a show-cause hearing. *Id.* at PageID.1704. That order stated that "if Doyle fails to comply with the subpoena, Defendants may refile an updated motion requesting [a show-cause hearing]." *Id.* Now before this Court is Defendants' Updated Motion for Order to Show Cause as to Christina Doyle. ECF No. 93. Defendants allege that since this

Court's order was entered, they have not received a response from Ms. Doyle. *Id.* at PageID.1719. Defendants sent Ms. Doyle a copy of this Court's July 2024 order and provided this Court with proof of service. ECF No. 93-7. Simer filed a response to the Motion, taking no position on the matter but asserting that he and his counsel have had no contact with Ms. Doyle. ECF No. 94.

Under Civil Rule 45(g), “[t]he court for the district where compliance is required . . . may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.” While the power to hold an individual in contempt “should not be used lightly,” “the Supreme Court has stated that this power ‘is a necessary and integral part of the independence of the judiciary, and is absolutely essential to the performance of the duties imposed on them by law.’” *Elec. Workers Pension Trust Fund of Local Union # 58, IBEW v. Gary’s Elec. Serv. Co.*, 340 F.3d 373, 378 (6th Cir. 2003) (*quoting Gompers v. Buck’s Stove & Range Co.*, 221 U.S. 418, 450 (1911)). This Court agrees that Ms. Doyle’s records may be relevant to Defendants’ case, but will issue a show-cause order before holding her in contempt.

Accordingly, it is **ORDERED** that Defendants’ Updated Motion for Show Cause Hearing, ECF No. 47, is **GRANTED** as follows:

1. Subpoenaed Non-Party Witness Ms. Christina Doyle is **ORDERED** to appear before United States District Court Judge Susan K. DeClercq,

Theodore Levin United States Courthouse, 231 West Lafayette Blvd.,
Courtroom 219, Detroit, Michigan 48226 on **October 22, 2024 at 2:00pm**
to show cause why she should not be held in civil contempt for failing to
comply with Defendants' subpoena;

2. Failure to appear and show cause as directed by this Order may result in a finding of civil contempt;
3. Defendants, as the moving party, are **ORDERED** to serve Ms. Doyle with a copy of this Order by first class mail, first class mail return receipt requested, overnight delivery AND any known email addresses. Defendant must file a notice of such service with this Court.

/s/Susan K. DeClercq
SUSAN K. DeCLERCQ
United States District Judge

Dated: 10/8/2024